Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FULL CIRCLE UNITED, LLC,

Plaintiff,

-versus-

BAY TEK ENTERTAINMENT, INC,

Defendant.

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20-CV-3395(BMC)

United States Courthouse
Brooklyn, New York

February 07, 2025
11:45 a.m.

TRANSCRIPT OF CIVIL CAUSE FOR PRETRIAL CONFERENCE
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES SENIOR DISTRICT JUDGE

APPEARANCES

For the Plaintiff: MANDEL BHANDARI LLP
BY: ROBERT GLUNT, ESQ.
RISHI BHANDARI, ESQ.
EVAN MANDEL, ESQ.

For the Defendant: MITCHELL SILBERBERG & KNUPP LLP
BY: CHRISTINE LEPERA, ESQ.
MARK HUMPHREY, ESQ.
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Proceedings recorded by mechanical stenography. Transcript produced by computer-aided transcription.

(Video conference.)

THE COURTROOM DEPUTY: Civil cause for pretrial conference, 20-CV-03395, Full Circle United, LLC vs. Bay Tek Entertainment, Inc.

State your name for the record starting with the plaintiff.

MR. GLUNT: Good morning, your Honor. For the plaintiff Full Circle, this is Rob Glunt. I'm joined by Rishi Bhandari and Evan Mandel, the same firm.

MS. LEPERA: Good morning, your Honor. For Bay Tek Entertainment, Christine Lepera. Along with my colleagues Mark Humphrey, Andrew Nietes and James Berkley. Thank you, your Honor.

THE COURT: Generally I only allow one attorney per side to speak at a conference. Since you both got multiple people, I'll allow if it's necessary.

I have a feeling this is not the last final pretrial conference we have based on your pretrial order. Let me make a couple of observations.

I think one or both sides when you drafted this said we better include everything including the kitchen sink in case we want to use it at trial, we don't want to be precluded. That's not an acceptable way to do a pretrial order. I'm not saying to have absolute certainty that you're going to use a witness or piece of evidence. But I am saying

10 percent or 20 percent is not enough. And it makes it unmanageable, as I think this probably is.

So what I do in those situations, I give the parties another chance to submit an amended joint pretrial order that reduces the number of witnesses and exhibits. I'm not saying you have to, you don't have to. But what I am saying is, when we go to trial if you don't call a witness or you don't offer an exhibit that was designated in the joint pretrial order, then I will hear a proffer from you as to why you changed your mind. And if I am not convinced that there was a good faith basis for the change of mind, if I believe that it was just an over-protectiveness that caused you to include that witness or exhibit in the joint pretrial order, that is a $5,000 sanction for a witness or exhibit. It really adds up.

So carefully consider whether you want to do an amended joint pretrial order that cuts back somewhat on everything that's been listed in here.

Now, the easiest place to start, I think, is what you are all doing with the depositions. The order scheduling this conference and requiring joint pretrial order was pretty clear that you don't have to list anything that's being used for impeachment or rebuttal. So there shouldn't be all that much, unless you're talking about witnesses who are not within the subpoena power of the Court or who are party opponents whose depositions you intend to read in as part of your case

and not call that party opponent as one of the witnesses in your case. Otherwise, when you give me all this deposition testimony like this, it's impossible for me to rule pretrial. And the very idea of reading those depositions during a trial and have the jury waiting there while we argue about each one of the designations and should I sustain the objection or overrule it, that's just not practical. We'll be there much longer than the outside nine days that one of you have participated. I want you to take a harder look at the deposition designations nations.

If it's an adverse party designation can you use it. Or you can call the adverse party, if they are within the subpoena power of the court. But you can't do both. Right. You have to decide what you want to do. You can't use cumulative evidence. So decide what you want to do as to those witnesses over whom you have subpoena power.

If you still decide you're going to use the deposition, then you have got to give me marked copies of the deposition with little brackets showing what you intend to use. And your adversary has to have the chance to put in their own different colored brackets citing to the federal rule that shows the objection to the testimony. Then I will give you item by item rulings on each portion of those depositions. I think that ought to help cut down the number of deposition designations.

And I'm starting from the promise that everybody understands, of course, that you can't use a deposition of your own people, right, your own people you got to get to court. And you can't use depositions of non-party witnesses who are within the subpoena power of the court. Everybody understands that. Except, obviously, for impeachment you don't have to list that if somebody says something inconsistent you pull out the deposition at trial and hit them with it. That's what I have to say about depositions.

Next, let me try to go through some of the witnesses that you designated. And some of them, there is going to be motion in limine and I've got that, and some of this stuff will be reserved for motions in limine so we'll have to work on that.

But obviously, for example, looking at Full Circle's witnesses, Eric pavone knee. He's going to testify. He's going to testify at trial. Is he going to testify in support of the dismissed claims? I don't think so. Does the defendant really think so? Why would the defendant think that the plaintiff would disregard my order and allow him to do that? So we don't need to worry about that. If it happens at trial you'll say, uh-huh, I was right, he is doing that. But I don't need to rule on that now because it seems unlikely. There are things he's not going to testify to.

I think that's true of most of Bay Tek objections to

Full Circle's witnesses. Obviously, other than the narrow basis on which lay opinion is admissible, I'm not going to allow fact witnesses to testify as experts. We don't have to worry about that now. They just can't do that.

If somebody is a contractor and they say, you can't join a 2x4 to 5x8, I'll allow that, he ought to know that. If it's something beyond that, probably not.

I think Bay Tek was a little over-protective in worries about that. Give some credit to your adversary. None of you are unsophisticated lawyers here, you know the rules of evidence. You know what I'm not going to allow. I don't want to take the time to go through every witness and what they might testify to and it's unlikely they will.

The rule against hearsay will has been applied. But so will be the numerous exceptions to the rule against hearsay. We all know what they are.

To the extent there is a Rule 403 issue, I'll have to balance it at the time depending on the entirety of the evidence in the case. So I don't think that's something we need to take up right now.

Is there in anything specific about any Full Circle witnesses that Bay Tek thinks it's necessary or it's advisable or would be helpful to raise at this time? Something that you really think Full Circle is going to over-step its bounds on and it's something we ought to air out now?

MS. LEPERA: Your Honor, there are two. Mr. Jacobs and Mr. Krause, who are identified as independent investors who will speak to efforts by Full Circle to, I guess, get money for something. This was never disclosed. These witnesses were never disclosed. There is no issue about any effort by them to get investments or not get investments. There is no dispute that they got no investments. They conceded that. I'm not clear as to the relevance of this proffered testimony.

THE COURT: Okay, let me hear from Mr. Glunt on that.

MR. GLUNT: Thank you, your Honor. So one of the defenses that the defendant has asserted in connection with this case is that Full Circle did not honor its obligation to use best efforts to promote licensed uses of the mark. And in particular, a lot of the questioning and some of the evidence seems to be directed toward the notion that Full Circle was this small failed venture that was unable to, that made no efforts to try to get investment to grow, that it had no ability, for example, to purchase the custom tables that obviously factor into this case, and that it made no effort to acquire financing in order to purchase those custom tables. That's a huge thrust of the defense that's been made in this case.

They also have an affirmative claim for breach of

the license agreement, again claiming that we breached our best efforts obligation.

So witnesses that were directly involved in these efforts to secure financing, we think would be relevant both to obviously opposing their affirmative claim, but also to demonstrate performance under the contract. That's precisely why they are identified. We don't view them as lengthy witnesses; we do think they have relevant testimony.

MS. LEPERA: If I may respond here?

THE COURT: Hang on. I don't think you'll need to.

First of all, the way you describe them they are actually, I might let you call them during your case, but they are more rebuttal witnesses, right, they are responding to a defense that Bay Tek is raising. Right?

MR. GLUNT: So I think that it's an interesting question, your Honor. Because to prevail on a breach of contract claim you have to show performance as an affirmative element of the claim. I think there is an argument that they are properly shown in our case in chief. I agree that in the sort of scheme of the case they do tend to be further on the defending against their defenses or butting their defenses. I agree with that, although I think as a technical matter they are part of our claim.

THE COURT: Whether it's an element of your claim or whether it is a rebuttal to Bay Tek's defense, it's something

that Full Circle knew about early on in the case. Right? Not a surprise issue where these witnesses get designated for the first time in the joint pretrial order.

MR. GLUNT: I agree that the issue was raised earlier in the case. Obviously we were not directly involved at that time. I can't speak to directly to what disclosure was made or wasn't made at that time, that is something I have to investigate to determine. But I agree that's an issue.

THE COURT: So then the question for me is, do I preclude them entirely for failure to identify them, it seems me there should have been a Rule 26 disclosure of them. Or, do I allow the discovery now. And I will hear from Bay Tek counsel, but my inclination is to say I'll allow the discovery now but I will require Full Circle to reimburse Bay Tek for its attorney's fees in taking this discovery because there is no excuse for not having disclosed them in the initial 26A disclosures at the beginning of the case.

All right, Ms. Lepera.

MS. LEPERA: Thank you, your Honor.

Many of the issues this case come to this point. We never said that we claim Full Circle violated the license agreement by not getting money. We never said they failed to try to get money. We have said they failed to buy the lanes and to do the things that the license agreement requires them to do in order to use the trademark.

That being said, again, of course if we were to make this point at trial they would have every right to rebut it, I think at this point I'm trying to streamline rather than increase this trial scope and the burden on the parties. So if Full Circle wants to reserve on this issue, I think that might be more productive since we're not going to say that at trial. And then they can decide if they want to use them as a rebuttal and we can take a quick couple of depositions at that point. My goal is to try to minimize all of this.

THE COURT: Okay. So what we've established, I think, is that this may well be capable of being worked out by stipulation. You two will talk and see if you can do that. If you can't do that, and Full Circle still wants to call these two gentlemen, then you'll have the right to take their depositions and Full Circle will pay for your attorneys fees in doing that.

MS. LEPERA: Thank you, your Honor.

MR. GLUNT: Understood, your Honor.

THE COURT: Anything else in Full Circle's witness list that you think needs to be highlighted right now, Ms. Lepera?

MS. LEPERA: The only thing I will mention, again, this is in the category of I don't want to waste time. Mr. Goldman, it's been clear from the discovery adduced in the case, there is no relevant information, never any use --

(audio interruption) -- casinos run to the ground.

THE COURT: I need to interrupt you. You're microphone connection is not great. It's not going in and out, but it's coming out a little garbled. Speak slower and get clearer to the mic.

MS. LEPERA: Absolutely, your Honor. I apologize, I speak fast. I'll be more cautious.

Mr. Goldman is identified as a CEO of a third-party Inko (ph), on discussions concerning the use of skeeball lanes and casino. This issue was run the ground in discovery. There was no use of skeeball lanes and casinos. I don't know what the point is. This testimony seems highly irrelevant, but that could be established by a couple of questions if they want to put him on the stand. That's the reason for the objection, your Honor, it's irrelevant.

THE COURT: Mr. Glunt.

MR. GLUNT: As the Court is aware, there is a tarnishment claim. And the thrust of the tarnishment claim is that FCU has associated the skeeball mark with adult activities. So some of it is drinking, some of it is sexual innuendo. And we feel that showing that, for example, Bay Tek was promoting or seeking to promote the use of the skeeball mark in casinos, also unambiguously an adult activity, is relevant to the tarnishment claim. Is it also relevant to the extent that Bay Tek was seeking to promote uses of the mark in

connection with competitive play in casinos, which would be also a violation of the license agreement.

THE COURT: Okay.

MS. LEPERA: If I may, your Honor.

THE COURT: Yes.

MS. LEPERA: Full Circle adduced all of the evidence to muster a claim that Bay Tek was engaging in some competitive live-play activity. It failed. That claim was dismissed. There is no evidence from this witness or another witness in the full record that would support that Bay Tek engaged in live-play.

Two, the tarnishment claim regarding Full Circle's conduct with respect to the mark is borne out of the obligation under the license agreement not to tarnish the mark and under trademark infringement law. What Bay Tek does, and frankly the record again shows, this didn't happen, does or does not do in placing a lane in a venue is not tarnishing the mark. There is no cumulative reference there.

I think for many reasons as I've stated, this is irrelevant.

THE COURT: I'll think about this more. I'm with you on your first point, but on your second point I'm not so sure. That seems me to more of an in party delicto situation, where you can hardly accuse Full Circle of tarnishing the mark if you're doing the same thing. Now, it may not be the same

thing. It may be something that you contend is really quite minor compared to what they were doing. And maybe I should get a motion in limine on that because I can't make that determination now. But it might well end up, in my gut sense without knowing the particulars, is that it might be something for the jury to determine, whether Full Circle really tarnished it, when tarnishment is viewed in terms of what Bay Tek itself was doing.

So if it's so clear to me that a reasonable jury would have to see these as two separate acts, not having to do with each other, then you're right I won't allow that testimony. But if it's something that a reasonable jury could weigh and say, you know, what is Bay Tek complaining about, yeah, they were both aggressive marketers, maybe Full Circle went a little bit too far in the sexual innuendo, but Bay Tek was going in that direction too; then I would be inclined to let it in.

MS. LEPERA: One other point, if I might, to be clear maybe it got lost in the translation.

It didn't happen. Introducing evidence of potential conversation or discussion about a potential use in a casino is far removed from using it in casino to demonstrate a quid pro quo tarnishment.

THE COURT: Mr. Glunt, I agree with that. There are all kinds of things that go on in people's heads. For a

variety of reasons they might decide not to do this, it will tarnish our mark. If they didn't do it, then the fact they thought about it doesn't control.

MR. GLUNT: I understand the argument, your Honor. I think it would still speak potentially to materiality to the extent that they have also claimed that the same conduct violates the license agreement. If they thought that placing skeeball in casinos was something that was within the scope of business plan or worth exploring, the idea that having some adult activities associated with it would constitute a material breach of the license, I think seems a bit far afield; but I understand the Court's perspective.

THE COURT: I'm going to sustain the objection. I think it really would, at least under 403, would get the jury thinking about things that didn't happen. So that won't be allowed.

MR. GLUNT: Fair enough, your Honor.

THE COURT: Any other issues that Bay Tek has about the witnesses?

MS. LEPERA: No, your Honor. We've made a Daubert motion with respect to their expert, the Court is aware.

THE COURT: Now regard to Bay Tek's witnesses. We have the private investigator, Mr. Williams. And I think that's kind of right. I mean, it's after the fact post-disclosure, post-discovery closing. Why would I allow

the investigator now?

MS. LEPERA: Let me explain, your Honor. The Court obviously in connection with the summary judgment motion is familiar with the underlying facts. With respect to the ten prototype lanes that Bay Tek built that Full Circle has in its two bars, one in Austin and one in New York, since this litigation and for this last several years they have been reporting zero revenue to Bay Tek in connection with any of the licensed uses. They have refused to tell us what they are doing with the lanes. They have refused to tell us that they are monetizing.

We sent investigators in and we never did a final deal as to what happens with these, as your Honor is aware, there was never any full agreement on custom lanes per se. So this is been sort of a: What are you doing with this lanes, Full Circle?

We've been pressing, we pressed prior counsel, we pressed new counsel, and ultimately what we have discovered is further infringing use. And in addition, when they claimed that we didn't allow them to use the skeeball live, they used it.

So it's inconsistent with their claims in this case. So this evidence that we were forced to obtain, and this precedent with respect to trademark owners going in and investigating and using investigators on that issue --

(Audio interruption.)

THE COURT: Anything, Mr. Glunt?

MR. GLUNT: You did not lose me. Apologize for the interruption.

MS. LEPERA: No problem.

We feel very much compelled to demonstrate this evidence, which is inconsistent with Full Circle's defenses and claims, and which is also inconsistent with their position on loss profits, to the extent it's allowed. Because they have not demonstrated any income from any use of these lanes. Again, for the last three or four years, there has been zero monetization for Bay Tek and it's a wasting assets. Because Full Circle has an exclusive right to monopolize and hold this mark hostage in this particular type of trademark use. So if they are not using this and they are not monetizing it, Bay Tek's not monetizing it, and it's essentially a wasted asset.

THE COURT: Okay. Let me ask you, if you weren't getting cooperation as to what was going on during the discovery period, why didn't you come to me?

MS. LEPERA: No, no this was after, to see what was going on in the zero revenue report and they won't tell us if they sold the lanes. So this is all about post-summary judgment conduct.

THE COURT: Okay, but --

MS. LEPERA: We had information earlier in discovery

when it was timely, that was a long time ago.

THE COURT: What relevance does it have if it's post-discovery?

MS. LEPERA: It is relevant to what they are currently doing with the mark from both an infringement perspective and ultimately it also has significant relevance to challenges, the intention that we somehow prevented them from using the skeeball mark when they are using it. So at least two relevant points. Not to mention, it's relevant on the economics, in terms of what they are doing with their business that is so devoted to skeeball growth but it's doing nothing for Bay Tek.

THE COURT: Does what they are doing now bear on what they were doing before? What I'm really asking you is, what is the cut off point of your counterclaim?

MS. LEPERA: Trial. It's a continuation. Just as if the Court would certainly rule for any damage claim they would require proof of up to the date of trial what the alleged profits are relative to that whole issue, it's a similar situation with respect to trademark infringement. It would be counter-intuitive to say, okay, for some reason they are not infringing but now they are and we go to trial and then we have to start all over again. So it's truly bringing proof current to the trial date.

THE COURT: Wouldn't it have preferrable for you to

come to me and ask supplemental discovery based on the need to see what is going on up to trial, rather than sending in a private investigator when as far as Full Circle knew discovery was closed?

MS. LEPERA: I think certainly this is one of these situations I'm attempting to try to minimize expense rather than maximize expense and/or objections and finding with Full Circle, which has been extensive, extensive and very costly. This was essentially, go in and see what is going on, rather than burdening the Court or the other sides.

If we want to go through this process now to establish what we've now established because the facts are the facts, they can't hide it now, I'm happy to do that. I think they should pay for that too. But that is the situation where it's, again, my goal is to try to keep this as tight as we can but yet create a scenario and record where all the relevant facts regarding what is going on here with this mark are brought to the Court.

THE COURT: Mr. Glunt, it does seem to me both on Full Circle's damage theories and also continuing injury and Bay Tek injuries, we do have to take the case up to trial and this is in the nature of supplemental discovery. I'm not sure I'm crazy about the way it was done, and you might have more discovery that you want to do as a result of this, but why is it not relevant?

MR. GLUNT: Your Honor, let me speak to that. A couple of things.

First, what we just heard from defense counsel I think has some the character of a new claim, some of the character of a new defense, but in it's actually very difficult to sort out. The first time these witnesses were disclosed to us, if you can call it a disclosure, is when their names appeared on a witness list on a proposed joint pretrial order. Which is I think opposite of how it is supposed to work. There is obviously an obligation under Rule 26e, in order to supplement, their is an obligation to amend their 26a responses.

And from what we've been able to glean from our clients this investigation appears to have occurred at least a month ago, maybe two months ago. Why they would have this investigation, take these pictures, do whatever they were going to do to, and then wait until the pretrial order to disclose it, it really does feel like gamesmanship, your Honor.

I think we're entitled to discovery of these witnesses if they are going to testify at trial. If fulsome federal discovery means anything, I think it means you don't just show up and meet the witness for the first time and find out what they are going to say and what the nature of what they are going to say is when they show up to trial.

It is difficult for me to determine whether this is a new claim, whether there is some kind of new defense. We need to know, what are these people going to say, what are they going to be testifying to, what bearing does it have on the claims that they actually asserted in this case.

I agree with your Honor that discovery and damages has to be updated up through the time of trial, that makes sense. I'm not sure that's what this is. This seems more like sending an investigator in to find something new to introduce or inject in the case as maybe a new form of infringement, maybe a new defense to infringement. It just sounds what gamesmanship.

MS. LEPERA: I must respond.

When Full Circle counsel withdrew and refused to tell us going on with the lanes, we were in limbo, we had no one to talk to. We weren't going to contact Mr. Pavoney directly, obviously. Then new counsel came at the eleventh hour on December 6. So we then had desire to make sure we were going to bring this to the Court. We were trying to figure out what we were going to do in that limbo period.

All the investigators did, it's not complicated, is they took pictures of the lanes and video to show the mark, and to show what was associated with the mark. What they've done is show that they are pairing it with all sorts of alcoholic beverage marks, using all sorts of other

advertising, essentially diluting the brand and infringing the mark license agreement, which none of this allowed. While simultaneously paying no money and holding the mark hostage.

I'm happy to have them post what the pictures are. They are in the exhibits. This is not secret. This is not any bad faith, it is opposite.

I think what Full Circle has done in concealing this ongoing infringement and use of these lanes while holding the mark hostage, is harmful to Bay Tek. Again, the license agreement is for the benefit of the mark.

THE COURT: This is not the way I would have done it. What I would have done is, have the investigator go, done his report, and then made a motion for supplement discovery based on the report, saying look what the investigator found, we need a discovery inspection, we need another deposition, we need more interrogatories; rather than just having him and his report show up.

His report gave you a good basis to seek to reopen discovery. But to try to surprise them with it at trial, like I said, I see the relevance, I don't think that Full Circle is disputing the relevancy; but the methodology is not the way it should have gone.

I will say the same thing I said before, you can when call him but you're going to pay for having him deposed. It's not the way it should go.

MS. LEPERA: May we take discovery of Full Circle on this issue because obviously that's the key to this.

THE COURT: You didn't ask before. If you would have asked, I probably would have said yes. But you decided to go with your investigator, and I'm inclined at this stage that you got what you got. You made your choice how to proceed. I don't want to keep expanding the case.

MS. LEPERA: Okay.

THE COURT: We're going to limit it to that. Is this the same thing with Anthony Chan?

MS. LEPERA: Yes, your Honor. One is an Austin bar, one is in the New York bar. Those are the two bars.

THE COURT: Okay, so same deal.

MS. LEPERA: Yes.

THE COURT: The exhibits I just don't want to tangle with today. I think I want to see the motions in limine first.

I also think, it's being confirmed by this conference, that the two sides aren't talking to each other enough. I really think some these things can be worked out if you understand what each of you is trying to do. And if you do that, you'll be able to agree more on what exhibits you actually need. I want to give you a better chance to decide if you want to streamline these exhibits, especially in light of the, if I wasn't clear, to say per exhibit $5,000 sanction

if you don't use it or you try to use it in bad faith. Okay. Think about that.

Let's say you give me either motions in limine or and/or an amended joint pretrial order in three weeks. Is that enough time?

MR. GLUNT: I think so, your Honor.

MS. LEPERA: I would strongly request that if possible, the rulings on the in limine motions will inform, especially from Full Circle's position because we already filed one in limine motion. A lot of the documents that they sought to proffer relate to just exchange after exchange after exchange on the ten lanes. And so if we can have in limine rules before we file the amended joint pretrial order, it might make sense to see where all that lands.

THE COURT: The reason I see it the other way is I think the amended joint pretrial order might eliminate a number of exhibits that you want to move in limine on.

MS. LEPERA: We already moved a considerable number of exhibits that Full Circle --

THE COURT: Some of those motions, part of those motions, may be moot in light of this discussion today.

MS. LEPERA: Okay.

THE COURT: I think it's better to have them both on the same date in three weeks. That will give you a chance to talk about the exhibits, to think separately about what you

want to withdraw, and what you still need to move on.

MS. LEPERA: Okay.

THE COURT: But I agree with you, it's dynamic. I'm not confident that I can predict the most efficient way to do it. If in the course of your discussions you come to different opinions as to how to tee it up, then let me know. I'll reconsider that.

MS. LEPERA: Thank you, your Honor.

So to that point, your Honor, you made a good point, the parties have not been able to talk to each other. And I think it would be great if Full Circle is amenable, without mandatory ADR with reference to the Eastern District mediation program, to see whether or not there is any way these parties can get a divorce.

THE COURT: Let me tell you my feeling about that. Generally, no.

MS. LEPERA: Okay. Even if the parties agree?

THE COURT: First of all, I have lived with this case long enough that from a personal perspective, I'd like to try this case.

MR. BHANDARI: I would love it, Judge, me to.

THE COURT: My personal desire should not be what drives the outcome of this action. I have to do what's best for the parties, I know it, I appreciate that.

But generally speaking, I also find that if I try to

keep the parties' feet to the fire as much as possible, if there is going to be a settlement it's more likely in that circumstance, than in the delaying the case for mediation. So my practice on mediation is I will send you to mediation only if both sides enthusiastically want me to, okay. You don't have to tell me now. Talk to each other and decide if you can represent to me that you both enthusiastically want me to do.

MS. LEPERA: I love to try cases. I love it. It would be a tremendous personal experience. These parties are on different planets; one is on earth, I believe that's us, Full Circle is on Mars. I'm making a joke.

THE COURT: You have to do what is best for the parties despite personal feelings. You have to do your best for your client despite your feeling.

You'll confer and let me know if you want me to refer you. But if I do refer you, that's not going to slow the schedule. Because I still feel keeping your feet to the fire is the best way to find out if the parties are really interested in settling. You'll let me know what you want to do.

MS. LEPERA: Okay, sounds good.

THE COURT: Let's stick to the three weeks motion in limine and amended joint pretrial order subject to such alteration as either or both of you think would be helpful in the getting the case moving.

MR. GLUNT: Understood, your Honor.

THE COURT: Okay. That's about all I've got for you now. Anything else we need to talk about?

MR. BHANDARI: Your Honor, I know you would have told us this if there what any possibility, is it possible to set any sort of trial date so we can start to block things off for this?

MS. LEPERA: That's a good idea.

THE COURT: I can set them. I generally don't because I'm concerned they won't be realistic. If you want me to set something, say, in June?

MR. BHANDARI: Yes.

THE COURT: I can do that.

MR. BHANDARI: That would be great.

MS. LEPERA: We were already blocking out April.

THE COURT: That's not going to happen.

MR. BHANDARI: I was blocking out March.

THE COURT: Who do you think I am?

MR. BHANDARI: I don't know, Judge, anything is possible, I figured if you had a free moment.

THE COURT: If it was a two-day trial I'd find you a free moment.

MR. BHANDARI: June is great.

MS. LEPERA: Can we set another pretrial conference date too?

THE COURT: Let me look at the papers then I'll pick a date for that, but that will be soon.

Let's say pick a jury on June 16 before a magistrate judge and we will proceed to trial immediately thereafter.

MS. LEPERA: Okay.

MR. GLUNT: Thank you, your Honor.

THE COURT: We'll see each other again hopefully in about a month after I've had a chance to look at your new submissions.

MR. GLUNT: Thank you, your Honor.

MS. LEPERA: Thank you.

(Whereupon, the matter was concluded.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Rivka Teich
Rivka Teich, CSR RPR RMR FCRR
Official Court Reporter
Eastern District of New York